

INFORMATION SHEET

DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK COUNTY V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: Saint Paul District

FILE NUMBER: MVP-2005-661

PROJECT MANAGER: Dale J. Pfeifle

PROJECT REVIEW/DETERMINATION COMPLETED: In the office? Y ☐ N ☒ **Date:** February 10, 2005
At the project site? Y ☐ N ☐ **Date:**

PROJECT LOCATION INFORMATION:

State: **Wisconsin**

County: **Waukesha**

Center coordinates of site by latitude & longitude: **42.9281791775N, 88.2610666741W**

Approximate size of site/property (including uplands) in acres: **77.5**

Name of waterway or watershed: **Upper Fox, Illinois, Wisconsin**

Type of Aquatic Resource ¹ :	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear Ft	Unknown
Lake									
River									
Stream									
Mudflat									
Sandflat									
Wetlands	X								
Slough									
Prairie Pothole									
Wet Meadow									
Playa Lake									
Vernal Pool									
Natural Pond									
Other Water (identify type)									

¹Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors ¹	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able to Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?			X		
Is or would be used as habitat by other migratory birds that cross state lines?			X		
Is or would be used as habitat for endangered species?				X	
Is used to irrigate crops sold in interstate commerce?				X	

¹Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION: Preliminary ☐ Or Approved: ☒

FILE NUMBER: MVP- 2005-661

ADDITIONAL INFORMATION SUPPORTING njd (e.g., paragraph 1 site conditions; paragraphs 2-3 rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 site information on waters of the U.S. occurring onsite): **A wetland delineation report was received at the Waukesha office for jurisdictional review and concurrence. The wetland delineation report identified 7- separate wetlands on the subject property. The first wetland identified in the delineation report is adjacent to Pebble Brook. The only separation between Pebble Brook and the wetland, is rail road bed fill. The railroad fill would not alter the adjacency of the wetland. A second wetland in the SW corner of the property is separated from the first wetland by 35 feet of cropped land. A hydric soil has been identified in the dividing strip of crop land. When considering the minor separation and a continuous hydric soil between the wetlands, the second wetland is also adjacent to Pebble Brook.**

The remaining 5 wetlands are located on the face of a rising slope. The delineation report soil borings indicate a lack of a hydric soil connection to the jurisdictional wetland described above. The delineation report also describes the 5 wetlands as depressional areas having a distinct topographic break at the wetland boundary. Three of the wetlands are associated with man-made ponds. Based upon a review of air photos from 1963, 1967, 1970, 1980, 1985, 1990, and 2000, a local topographic map, and the Waukesha County soils survey, these 5 wetlands are isolated waters. They do not have a hydric soil connection and lack a defined surface water connection to a water of the US. In addition, they are not adjacent waters and lack a connection to interstate commerce.

The information submitted suggested that the subject property would be utilized as a residential subdivision. The landowner would attempt to avoid wetland impacts where ever possible.